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MIDDLESEX COUNTY VICTIM WITNESS SERVICES BUREAU

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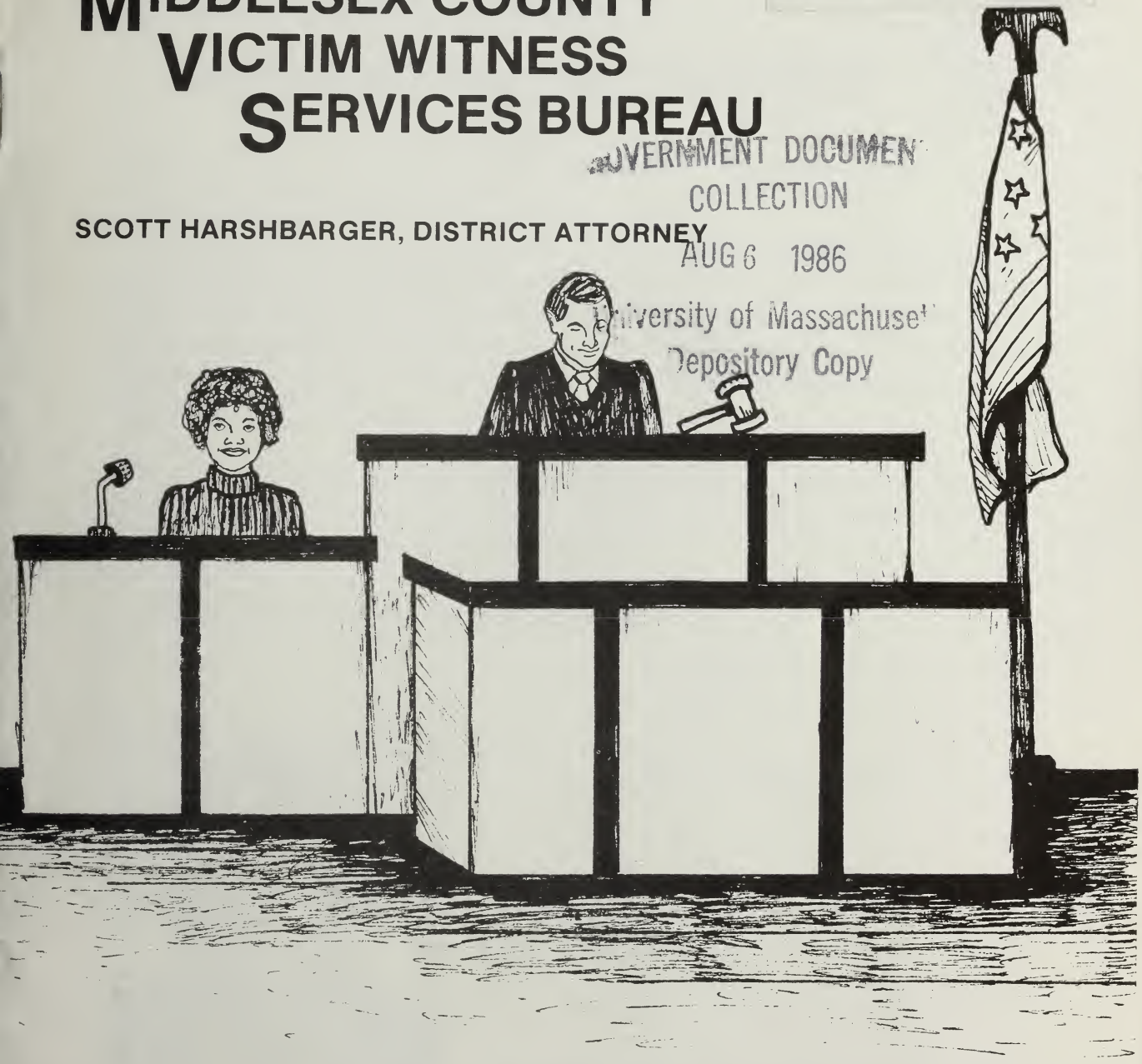
SCOTT HARSHBARGER, DISTRICT ATTORNEY



INFORMATION PAMPHLET

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A MESSAGE FROM THE DISTRICT ATTORNEY

CITIZENS OF MIDDLESEX COUNTY:

On behalf of the people of Middlesex County, I want to express my personal appreciation to you for your willingness to participate in the criminal justice system. With your help this office can fulfill its responsibility to the public to ensure swift, fair and equal justice. You are a critical part of the system. We will do everything we can to ensure that your interests, concerns and needs are represented and protected.

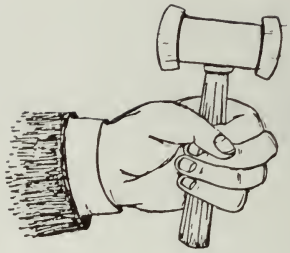
This pamphlet is designed to explain many of the aspects of the criminal justice system as well as to inform you of the kinds of services that are available to you through our Victim Witness Services Bureau.

Thank you for your cooperation and participation.

Sincerely,

SCOTT HARSHBARGER

COURT PROCEDURE



COMPLAINT

A criminal case begins in the District Court by a **Complaint,** which is a document issued by the Court formally charging a person with having committed a crime. The complaint is usually issued by the Clerk-Magistrate after a police officer or private citizen completes and swears to an **Application for Complaint,** briefly describing the facts of the crime. If the accused person is not already under arrest, the Clerk-Magistrate may hold a **Clerk's Hearing** in order to determine whether to issue a Complaint. If the Clerk-Magistrate does not issue the Complaint, the person seeking the Complaint may appeal to a judge.

Once a Complaint has been issued, the case is officially before the Court.

ARRAIGNMENT & BAIL

A defendant appears in Court for the first time at the arraignment. At the **Arraignment** the judge notifies the defendant of the charges against him, and also advises him of his right to have a lawyer. In cases where the defendant cannot afford an attorney, the court may appoint an attorney to represent him.

At the arraignment the judge also will determine the conditions for the defendant's release from custody until trial. The judge may set bail or release the defendant on his own recognizance. The purpose of bail is to assure a defendant's appearance in court, not to punish him.

DISTRICT COURT TRIAL

The District Court has jurisdiction over misdemeanors and certain other less serious crimes. In those cases within the District Court's jurisdiction, a defendant may choose to have the case heard first by a judge, and then may appeal for a new trial to a jury of six persons. Witnesses may be called to testify at both trials. Before witnesses testify in either trial, they will be asked to discuss the case with the Assistant District Attorney assigned to prosecute it.

Probable Cause Hearing

In certain more serious crimes, the District Court does not have jurisdiction to conduct a trial. Instead the case will be scheduled for a **Probable Cause Hearing.** At the **Probable Cause Hearing** witnesses will testify under oath before a judge in the presence of the defendant, the defense counsel and the Assistant District Attorney. The purpose of the hearing is to establish that probable cause exists (a) that a crime has been committed, and (b) that the defendant committed the crime.

As with the District Court trial, witnesses will have an opportunity to discuss the matter with the Assistant District Attorney who is prosecuting the case. Once probable cause is found, the case is bound over to the Superior Court for the second step, presentment to the Grand Jury.

Grand Jury

Before a case may be tried in Superior Court, a formal charge must be made. This charge, called an **indictment,** comes from the **Grand Jury,** which consists of twenty-three citizens of Middlesex County. **Grand Jury** proceedings are secret and witnesses testify under oath to questions from an Assistant District Attorney. Neither the defendant nor defense counsel are present when witnesses testify before the **Grand Jury.** The **Grand Jury** members vote, and if twelve or more find that there is probable cause that the defendant committed a crime, the defendant is formally charged.

Superior Court Trial

After the indictment is issued, a defendant is arraigned before a Superior Court Judge who may make a determination regarding bail. A date is then set for a pre-trial conference between the Assistant District Attorney and the defense attorney at which time the defendant must be present. Normally, witnesses are not required to be present at either the arraignment or the pre-trial conference.

The defendant has the right to a Superior Court trial before a jury of twelve persons. The defendant may waive this right and have the case heard by a judge. Witnesses will be required to testify, and are subject to questioning by both the Assistant District Attorney and defense counsel. A defendant is not required to take the stand to testify.

Either the jury, or the judge if there is no jury, will decide whether the defendant is guilty or not guilty.

WITNESS INFORMATION

SENTENCING

If a defendant is found not guilty, then he is free to go, and may not be tried again for the same crime. If he is found guilty, the judge, not the jury, will impose a sentence after listening to recommendations from the Assistant District Attorney and the defense attorney. Victim input is often helpful, and your feelings should be expressed to the Assistant District Attorney. The types of sentences which may be imposed by the judge include:

Probation, Suspended Sentence, Restitution, Imprisonment.

In some instances, a judge may continue a case without making a finding of guilt for a specified period of time. If during that time the defendant does not violate the law, the case may be dismissed.

CONTINUANCES

Sometimes court hearings or trials cannot take place as scheduled and must be postponed. To avoid an unnecessary trip to court, you should call our office 24 hours prior to your scheduled appearance.

SUBPOENA/SUMMONS

A subpoena is a court order directing you to be present at the tme and place stated. Please obey it. Unless the Assistant District Attorney or a victim advocate has excused you or placed you on "phone alert," your appearance will be required. Please bring your subpoena with you. If the subpoena requires you to bring evidence with you, please do so.

DEFENSE ATTORNEYS

Witnesses and victims sometimes are contacted by defense lawyers, requesting information about the case. There are no rules prohibiting you from talking to the defense attorney, nor are there rules requiring you to do so. It is entirely your choice, and you should not feel pressured.

Juvenile proceedings

If the person accused of committing a crime is under 17 years of age, the case will be handled in Juvenile Court. A serious juvenile crime or a crime committed by a juvenile with a lengthy record may be "transferred" to adult court.

Fears/threats

If you have any apprehension about your involvement in the case, please contact the Victim Witness Service Bureau. If you receive a threat, please call the police and the Assistant District Attorney. Retaliation is unlikely but feel free to discuss your concern.

Change of address

Please keep our office informed of your current address, as well as your work and home phone numbers.

Witness fees

Victims and witnesses are entitled to witness fees. Witness fees are for travel expenses and are not designed to reimburse you for lost wages. After you have testified, an Assistant District Attorney, police officer or victim advocate can help you get your witness fee.

Victim compensation

Massachusetts law provides compensation to victims of violent crimes or their dependents for out of pocket expenses due to loss of income, loss of support, physical injury or death. If you believe you are eligible, a victim advocate can help you to file a claim.

Restitution

As a victim of a crime, any expenses you have incurred should be brought to the attention of this office. We will ask the court to order the defendant to reimburse you for all or part of such expenses.

GUIDELINES FOR WITNESSES

The particular facts of the case will be discussed with you by the Assistant District Attorney before you go into the courtroom. The following general information will give you an idea of what is expected of you as a witness.

You will be called as a prosecution witness by the Assistant District Attorney. Listen carefully to each question, make sure you understand it, and then answer the question as best you can. If for any reason the question seems vague or unclear, tell the Assistant District Attorney that you don't understand, or ask that the question be restated more clearly. You should answer only the question asked; do not volunteer information not called for by the question.

If you really do not remember or perhaps never knew the answer to a question, admit it frankly. Even if you feel that a question is embarrassing, or might help the defendant, please try not to avoid answering. In all your answers, please try to reply as honestly and completely as you can.

Speak clearly and loud enough to be heard. Your attitude should be courteous and objective. Try not to lose your temper. You are in court because you have some knowledge about a crime, and the court has ordered you to appear to testify truthfully.

After the Assistant District Attorney questions you, you may be asked questions by the defendant's lawyer. Again, make sure you understand each question, and ask to have unclear questions repeated. Answer the questions frankly and objectively. No matter who is questioning you, it is all right to hesitate and give some thought to the answer before you reply.

Please be prepared to wait. You may want to bring a book to help pass the time.

SERVICES FOR WITNESSES

The Victim Witness Service Bureau attempts to minimize the confusion and trauma suffered by victims and witnesses of crime in Middlesex County. Listed below are some of the services the Bureau provides:

- Information regarding the status of defendants.
- Explanation of and orientation to the criminal justice system.
- Crisis intervention counseling.
- Counseling, reassurance and support following the crime.
- Community resource and referral counseling.
- Restitution information.
- Property return assistance.
- Help with employer-related problems.
- Aid in filing victim compensation claims.

Cambridge Victim Witness Service Bureau Office **494-4430**

Framingham Victim Witness Service Bureau Office **875-4141**

Lowell Victim Witness Service Bureau Office **459-2323**

Waltham Victim Witness Service Bureau Office **893-7140**

Somerville Victim Witness Service Bureau Office **625-2521**

Malden Victim Witness Service Bureau Office **322-2020**

Woburn Victim Witness Service Bureau Office **933-9586**

Marlboro Victim Witness Service Bureau Office **485-2338**

Ayer Victim Witness Service Bureau Office **772-4907**

GLOSSARY

1. **ACQUITTAL** — a verdict of not guilty in a criminal case.
2. **ADMISSION TO SUFFICIENT FACTS** — the act of admitting that there is sufficient evidence to warrant a finding of guilty.
3. **ASSISTANT DISTRICT ATTORNEY** — an attorney empowered to prosecute criminal cases on behalf of the government.
4. **CHANGE OF PLEA** — the act of changing one's plea of not guilty to guilty.
5. **DEFAULT WARRANT** — a warrant issued to arrest an individual who fails to appear in court when scheduled.
6. **DEFENDANT** — the person who has been charged with committing a crime.
7. **DEFENSE COUNSEL** — defense attorney.
8. **INDICTMENT** — a formal written accusation made by a grand jury, stating that a specific person has committed a specific crime.
9. **JURISDICTION** — the authority of a court to hear a particular matter.
10. **OBJECTION** — a claim by a defense attorney or an assistant district attorney that a question posed to the witness is legally improper. Objections are ruled on by the trial judge.
11. **RESTITUTION** — money paid back to a victim by the defendant to make the victim "whole" again.
12. **SEQUESTER** — to set witnesses apart and segregate them so one does not hear another testify or discuss testimony with other witnesses.
13. **SUBPOENA** — (summons) — a court order requiring a person to appear in court to give testimony.
14. **TESTIMONY** — statements made in court by people who have sworn to tell the truth.
15. **VERDICT** — the decision of the judge or jury at the end of trial.
16. **WARRANT** — an order from the court to arrest a person or seize an object.

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR MIDDLESEX COUNTY
CAMBRIDGE 02141

SCOTT HARSHBARGER
DISTRICT ATTORNEY

494-4050

RIGHTS OF VICTIMS AND WITNESSES OF CRIME

Effective March 20, 1984, the Commonwealth of Massachusetts grants victims and witnesses of crime the following rights provided they have reported the crime to the police. These rights include:

1. Timely notification of:
   -Court appearances
   -Continuances
   -Final Disposition of Cases
2. Prompt disposition of the case.
3. Information and assistance regarding:
   -Witness Fees
   -Restitution
   -Victim of Violent Crime Compensation
   -Employer & Creditor Assistance
   -Level of Protection Available
   -Social Services
   -Inmate Status
   -Transportation and Child Care
   -Prompt Return of Property
   -A Secure Waiting Area

In felony cases and cases of misdemeanor motor vehicle homicide, these additional rights apply:

-Timely notification of time and place of sentencing.

-The opportunity to inform the court, orally or in writing, of the impact of the cirme.

The Middlesex County District Attorney's Office, in its ongoing commitment to victim's rights and subject to available resources, will make every effort to provide comprehensive services to victims and witnesses. For further information and assistance, please contact:

Assistant District Attorney: _____

Victim/Witness Advocate: _____

Pamphlet Prepared by Amy Singer / Chief, Victim/Witness Services Bureau

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